

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF NURSING

In the Matter of the Nursing License of
Hazel M. Bell, R.N.
AND
License No. 125248-8

**FINDINGS OF FACT,
CONCLUSIONS**

RECOMMENDATION

The above-entitled matter came on for prehearing conference before Administrative Law Judge Barbara L. Neilson commencing at 1:30 p.m. on Friday, December 17, 1999, at the offices of the Board of Nursing in Minneapolis, Minnesota. Louis Hoffman, Assistant Attorney General, Suite 1400, 445 Minnesota Street, St. Paul, Minnesota 55101-2131, appeared on behalf of the Minnesota Board of Nursing. There was no appearance by or on behalf of the Respondent, Hazel M. Bell. The record closed on January 3, 2000, upon receipt of an affidavit filed by the Board of Nursing.

NOTICE

This Report is a recommendation, not a final decision. The Board will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact the Minnesota Board of Nursing, Suite 500, 2829 University Avenue, S.E., Minneapolis, Minnesota 55414, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF THE ISSUE

The issue in this case is whether or not disciplinary action should be taken against the R.N. license of the Respondent in accordance with Minn. Stat. §§ 148.261.

Based upon the record in this matter, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On November 17, 1999, a copy of the Notice of and Order for Prehearing Conference and Hearing in this matter was mailed to the Respondent in care of Stella Gamble, 13201 Dayton River Road, Dayton, Minnesota 55327. This is the Respondent's last known address on file with the Board of Nursing. The mailing was not returned to the Board's office by the United States Postal Service. Affidavit of Shirley A. Brekken.

2. The Notice of and Order for Prehearing Conference and Hearing that was mailed to the Respondent scheduled a prehearing conference for December 17, 1999, at 1:30 p.m. The Notice of and Order for Prehearing Conference and Hearing contained the following statement:

If Respondent fails to appear without the advance consent of the administrative law judge at the prehearing conference in this matter, Respondent is in default and the allegations or issues in this notice are true without further evidence and the Board may revoke, suspend, and take other action against Respondent's license to practice professional nursing in the State of Minnesota. Respondent is further notified that if disciplinary action is taken against her license, she may be required to pay all costs of proceedings resulting in the action and civil penalty not exceeding \$10,000 for each separate violation.

3. The Respondent did not appear at the December 17, 1999, Prehearing Conference. The Respondent did not contact the Administrative Law Judge to request a continuance. No Notice of Appearance was filed by Respondent in this matter.

4. The allegations set forth in the Notice of and Order for Prehearing Conference and Hearing, having been deemed proved and taken as true, are hereby incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Board of Nursing and the Administrative Law Judge have subject matter jurisdiction herein pursuant to Minn. Stat. §§ 214.10, 214.103 and 14.50.

2. The Respondent was given timely and proper notice of the Prehearing Conference in this matter.

3. The Minnesota Board of Nursing has complied with all relevant substantive and procedural requirements of statute and rule.

4. Under Minn. Rule 1400.6000, the Respondent is in default as a result of her failure to appear at the scheduled prehearing conference.

5. Under Minn. Rule 1400.6000, when a party defaults, the allegations and the issues set out in the Notice of and Order for Prehearing Conference and Hearing may

be taken as true and deemed proved. The Administrative Law Judge therefore takes those allegations and issues as true and deemed proved.

6. Based upon the facts set out in the Notice of and Order for Prehearing Conference and Hearing, the Respondent failed or has been unable to perform nursing with reasonable skill and safety, in violation of Minn. Stat. § 148.261, subd. 1 (5), and is subject to disciplinary action by the Minnesota Board of Nursing.

7. An order by the Board prescribing disciplinary action against the Respondent is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED: that disciplinary action be taken by the Minnesota Board of Nursing against the R.N. license of Hazel M. Bell.

Dated: January 6, 2000

BARBARA L. NEILSON
Administrative Law Judge

Reported: Default.

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Board of Nursing is required to serve its final decision upon each party and the Administrative Law Judge by first-class mail.